

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

AIRSTRUCTURES WORLDWIDE, )  
LTD., et al. )

Plaintiffs, )

vs. )

Case No. 4:09CV10 CDP

AIR STRUCTURES AMERICAN )  
TECHNOLOGIES, INC., et al., )

Defendants. )

**MEMORANDUM AND ORDER**

This matter is before me on plaintiffs’ motion to strike five of defendants’ affirmative defenses. Federal Rule of Civil Procedure 12(f) provides that “the court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Although the Court enjoys “broad discretion” in determining whether to strike a party’s pleadings, such an action is “an extreme measure.” Stanbury Law Firm v. IRS, 221 F.3d 1059, 1063 (8th Cir. 2000) (internal quotations and citations omitted). Accordingly, motions to strike are “viewed with disfavor and are infrequently granted.” Id. A motion to strike will not be granted if “the insufficiency of the defense is not clearly apparent, or if it raises factual issues that should be determined on a hearing on the merits.” Kuhlmeier v. Hazelwood Sch. Dist., 578 F. Supp. 1286, 1295 (E.D. Mo. 1984);


see also FDIC. v. Coble, 720 F. Supp. 748, 750 (E.D. Mo. 1989) (holding a motion to strike will not be granted “unless, as a matter of law, the defense cannot succeed under any circumstances, or is immaterial in that it has no essential or important relationship to the claim for relief.”) (internal quotations and citations omitted).

To decide a motion to strike, the Court “must view the pleadings in the light most favorable to the pleader,” Multimedia Patent Trust v. Microsoft Corp., 525 F. Supp. 2d 1200, 1211 (S.D. Cal. 2007), and should refrain from deciding new or close questions of law on a motion to strike due to the risk of offering an advisory opinion. See Lunsford v. United States, 570 F.2d 221, 229-30 (8th Cir. 1977).

Having reviewed the affirmative defenses at issue under these standards, the motion to strike must be denied. The challenged defenses meet the pleading requirements of Federal Rule of Civil Procedure 8. Whether defendants may ultimately prevail on these defenses is not properly before me at this time.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiffs’ motion to strike [#11] is denied.

  
CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 23rd day of March, 2009.